

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF GAIL) APPEAL NOS. 07-A-2250
FORSGREEN from the decisions of the Board of) AND 07-A-2251
Equalization of Kootenai County for tax year 2007.) FINAL DECISION
) AND ORDER

RESIDENTIAL AND VACANT LAND PROPERTY APPEALS

THESE MATTERS came on for consolidated hearing October 2, 2007, in Coeur d'Alene, Idaho, before Board Member Linda S. Pike. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellant Gail Forsgreen and witness Wilfred Forsgreen appeared. Assessor Mike McDowell, Residential Manager Darin Krier and County Appraiser Erin Sacksteder appeared for Respondent Kootenai County. These appeals are taken from decisions of the Kootenai County Board of Equalization denying the protests of valuation for taxing purposes of properties described as Parcel Nos. B00000030800 and B00000030795.

The issue on appeal is the market value of residential and vacant land properties.

The decision of the Kootenai County Board of Equalization is modified.

FINDINGS OF FACT

Parcel No. B00000030800 (800)

The assessed land value is \$360,360, and the improvements' valuation is \$62,530, totaling \$422,890. Appellant requests the land value be reduced to \$96,000, and the improvements' value be reduced to \$62,000, totaling \$158,000.

The subject property is an improved waterfront site with a 637 square foot, single family dwelling built in 1942. The residence has two bedrooms and a half bathroom. The property has 50 feet of water frontage. Parking for the residence is shared with a neighboring property or on

the adjacent paved road.

Parcel No. B00000030795 (795)

The total assessed land value is \$214,500. Appellant requests the value be reduced to \$96,000.

This parcel is an unimproved tract. The Assessor described Parcel 795 as .138 acres of vacant, buildable land with 50 feet of water frontage. Electricity is on the access road of this lot, and water and sewer utilities are supplied by Bayview Water and Sewer District. According to Respondent, Parcel 795 is one of few vacant buildable waterfront lots left in town.

These two lots are located approximately 25 miles north of Coeur d'Alene, Idaho on the south side of Hudson Bay, on Lake Pend O'reille.

According to Appellant, the assessed value of the subject parcels was based on the sales of two lots located "on the opposite side of the lake". Appellant does not believe these lot sales should be considered when valuing subjects, as they are not proximate. A float house west of subjects (Holland), with similar terrain, sold for \$99,000. This property was listed for sale for \$199,000 for several years prior its sale in 2004.

The Holland sale was not considered by Respondent to be an arm's-length transaction, as it was sold to a family member.

Appellant testified improved lakefront property similar to subject has been on the market for over two years. Two local real estate offices claimed waterfront property sales have been slow.

One lot on the east side of subjects is an improved lot (Porter) with an assessed value \$1,663 less than Appellant's improved Parcel 800. Appellant was told in a letter from the County that the Porter parcel is "larger in waterfront length than yours."

Appellant maintains Parcel 795 is not large enough to build a dwelling on because:

- There is a sewer easement requiring a 10 foot distance around it with no structures;
- there is currently (2008) a moratorium on any new water and sewer hookups;
- permission would have to be acquired from neighbor Porter because Appellant would “be below the 25 ft. requirement”;
- after considering the sewer easement and set backs, there is room to build a structure of approximately 1140 square feet;
- allowable residences must be at least 1,300 square feet¹;
- the grade is steep;
- there is a road easement on the property.

The Assessor explained subjects’ area did not have a 2007 revaluation, but had a market adjustment based on recent sales. Respondent’s Exhibit No. 1 included a spreadsheet comparing two sales to subjects. According to the Assessor, properties in subject area historically have more amenities, better access, and sell for more than properties in other areas. The Assessor agreed with Appellant, two sales do not make a market, but the increases found in these sales were compared with increases elsewhere (areas with more sales) and it was found that waterfront property county-wide had increased in value.

The Assessor noted no information was furnished from an independent source to substantiate Appellant’s claim that the unimproved lot is unbuildable. There was a letter, dated October 1, 2007, substantiating the fact that there is a moratorium on water and sewer hookups until further notice. As this was unknown on January 1, 2007 (lien date), Respondent stated the information will be considered for the 2008 tax year.

¹According to a Planning and Zoning conversation reported by Mr. Wilfred Forsgreen.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

All property in Idaho is taxable unless specifically exempted by statute. *See Idaho Code § 63-601*. Subjects do not qualify for any of the enumerated exemptions, therefore, they are subject to assessment and taxation.

For the purposes of property taxation, Idaho uses a market value standard as defined by Idaho Code § 63-201(10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing sell, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The Idaho Supreme Court has recognized three (3) approaches to determine market value:

[T]here are three primary methods of determining market value: the cost approach, in which the value as determined by new cost or market comparison is estimated and reduced by accrued depreciation; the income approach, applicable to “income producing property” in which a capitalization rate is determined possibilities market conditions and applied to net income from the property to determine appraised value; and the market data (comparison method) approach, in which value of the assessed property is ascertained by looking to current open market sales of similar property. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979).

Respondent used the market data approach to value subjects’ land and presented two

(2) sales to that end. The obvious problem here is the sale properties were not located in the vicinity of subject lots. The two properties were improved and did not suffer from the same restrictions as subject lot 795.

Parcel 795's development restrictions were not documented by independent sources. But the Board is convinced the parcel was restricted even prior to the water and sewer moratorium. Steepness, easement restrictions, setbacks and size of possible construction, limit the use of this lot. These restrictions were not quantitatively recognized by the Assessor. The Board finds a reduction in assessed value has merit. The neighboring property was listed for sale for several years at approximately \$200,000. The Board recognizes a listing does not establish a market, but it can suggest a practical ceiling for the value of like property. Therefore the Board will reduce the value of Appellant's unimproved parcel, Parcel 795 to \$200,000. The water and sewer moratorium can be considered for the 2008 tax year.

Parcel 800 demonstrated the same steepness as Parcel 795. Other considerations include a shared ingress and egress easement, shared and/or road parking. Respondent did not make adjustments for these factors. The Board believes an adjustment is warranted to the assessed value of this parcel. Therefore the Board reduces the value of Appellant's improved parcel, Parcel 800, to \$287,500.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Kootenai County Board of Equalization concerning the subject parcels be, and the same hereby are, modified to reflect a reduction in the assessed values of subject lots as follows:

Parcel No. B00000030800 land reduced to: \$287,500

Improvement remain: \$62,530

Total \$350,030

Parcel No. B00000030795 land reduced to: \$200,000

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED APRIL 3, 2008